

SFUND RECORDS CTR 88095792



SFUND RECORDS CTR 1633-92380



Republic Plaza, 370 Seventeenth Street, Suite 3150

Denver, CO 80202

Telephone: (303) 825-1200 Fax: (303) 892-8808

RICHARD E. BLUBAUGH Vice President of Environmental and Governmental Affairs

January 19, 1993

Richard Procunier, Ph.D.

Project Manager - Atlas Mine Site Remedial Action
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Hazardous Waste Management Division
Superfund Program (H-6-2)
75 Hawthorne Street
San Francisco, CA 94105-3901

Re: Atlas Mine Superfund Site Access Agreement Between Atlas, VMMC and BLM

Dear Richard:

Enclosed please find a copy of the Access Agreement for the Atlas Mine area which was executed by Atlas Corporation, Vinnell Mining and Minerals Corporation (VMMC) and the Bureau of Land Management (BLM). I believe this Agreement, along with the previously obtained authorization regarding the ten acre tract owned by Wheeler Properties, Inc., is sufficient for the purpose of gaining access to the Atlas Mine Superfund Site to preform the selected remedy.

Please contact me at your convenience should you have any further questions or comments regarding this matter.

Sincerely,

Richard & Blubaugh

c: J.C. Fontana, Esq., Vinnell Minerals & Management Corporation

R.A. Bourque, Esq., Simpson, Thacher & Bartlett

R.H. Mays, Esq., Marks & Murase

P.L. Fitzwater, Environ

T. Moore, BLM

F. Lopez, Department of Toxic Substances Control, California

R. Anderson, Ecology & Environment, Inc.

A. McDonald, PTI

ACCESS AGREEMENT

- 1. WHEREAS, the Atlas Mine Area Operable Unit (the "Site") of the Atlas Asbestos Mine Superfund Site, located in Fresno County, California is an approximately 1.8 square kilometer (450 acre) tract of land located in the upper White Creek Watershed just south of the San Joaquin Ridge in the Southern Diablo Mountains, Sections 31 and 32, Township 18 South, Range 13 East, in western Fresno County, California;
- 2. WHEREAS, pursuant to Section 105(a)(8)(B) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605(a)(8)(B), the United States Environmental Protection Agency ("EPA") placed the Atlas Asbestos Superfund Site on the National Priorities List on September 21, 1984;
- 3. WHEREAS, Vinnell Mining and Minerals Corporation

 ("VMMC") and Atlas Corporation ("Atlas") entered into a Consent

 Decree with EPA that was entered in the U.S. District Court for
 the Eastern District of California, Docket # 1-92-CV-5373 OWW

 (the "Consent Decree") on the 13th day of August, 1992, wherein

 VMMC and Atlas have agreed to, among other tasks, design,
 implement and maintain the cleanup and/or remediation of the Site
 in accordance with the terms of the Consent Decree;

- 4. WHEREAS, under the terms of the Consent Decree, VMMC and Atlas are obligated to use their best efforts to obtain site access agreements from the persons or entities who own, manage or control the land upon which the Site rests;
- 5. WHEREAS, approximately all but ten (10) acres of the Site are public lands under the jurisdiction of the Bureau of Land Management, Department of the Interior, United States of America ("BLM");

NOW, THEREFORE, BLM, VMMC and Atlas do hereby agree to the following:

- 1. VMMC, Atlas and EPA, and all of VMMC's, Atlas's and EPA's contractors, are granted reasonable access to those portions of the Site under BLM's jurisdiction solely for the purposes of performing the necessary remedial work described in the Consent Decree, the Scope of Work ("SOW"), Work Plans and other documents required and approved by EPA pursuant to the Consent Decree. Such reasonable access is granted and shall continue at the sole discretion of BLM. BLM reserves the right to restrict, revoke or further qualify the terms of access contained in this Agreement at any time.
- 2. Any person acting on behalf of VMMC, Atlas and EPA who accesses the Site shall, at all times while on the Site, comply with all applicable provisions of the Worker Health and Safety Plan as submitted pursuant to Section IX of the Consent Decree

and the SOW, and with all applicable local, state and federal laws and regulations.

- 3. VMMC and Atlas shall provide BLM with reasonable prior notice of all entries onto the Site by VMMC and Atlas representatives.
- 4. Atlas and VMMC agree to indemnify and hold harmless the United States for any and all liability which may result from the acts or omissions of Atlas, VMMC or any person acting on behalf of Atlas or VMMC at the Site, including personal injury, injury to others, death, damage to personal property, damage to real property, or damage, injury or liability of any kind to the extent such injury, damage or liability does not result solely from the acts or omissions of the United States.
- 5. Except as expressly set forth in this Access Agreement, by entering into this Agreement, neither VMMC and Atlas nor BLM waives any of its rights, claims or defenses in the ongoing litigation between the parties in the United States District Court for the District of Columbia, (Vinnell Mining and Minerals Corporation and Atlas Corporation v. Bureau of Land Management, Department of the Interior, United States of America, Civ. No. 91-1324 (JHG) (D.D.C.)).

IN WITNESS WHEREOF, the parties have caused this Access Agreement to be duly executed on the dates herein below.

VINNELL MINING AND MINERALS CORPORATION
By: Alluly
Date 1/4/93
ATLAS CORPORATION
By: Lil St. Blibage
Date
BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, UNITED STATES OF AMERICA
By: Eaf Hanter
Date